

In the Drawings:

Please replace sheets 1/3 to 3/3 of the drawings by the replacement sheets submitted herewith.

Remarks

1. It is noted that the Examiner agreed by telephone to delete section 1 of the Office Action subsequent to the Office Action being issued.
2. In the specification, applicants have amended the title of the specification in a manner that should be acceptable to the Examiner.
3. In the drawings, the figures have been amended to identify a "URI comprising the specified future time" and marked as being "REPLACEMENT SHEETS". Applicants submit that "Client PC with PC phone" and/or "Telephone terminal" as schematically represented in the figures is sufficient to identify a call source and call destination. Applicants are unsure how one represents the terms "a specified future time" and "automatically" in the figures and would welcome any suggestions from the Examiner of how this might be achieved, if such is believed necessary in addition to the revisions already effected.
4. In the claims, applicants have amended claim 1 to refer to the "specified future time" throughout the claim. Claims 2 to 8 and 10 have been amended to refer to "The method" whereas claims 12 to 15 have been cancelled thereby addressing the 35 U.S.C. s101 rejection of these latter claims and making moot the informality issue identified in connection therewith.
5. In the claims, independent claims 1 and 11 have been amended to refer to a "telephony apparatus" to make said claims consistent with other independent claims still pending in this application.
6. Referring to sections 8 and 9 of the Office Action, the Examiner has rejected the independent claims as currently pending as being obvious over Newman

(US2003/0037109) in view of AAPA (applicant's admitted prior art), further in view of Farris et al (US6574216), yet further in view of Blackketter et al (US2002/0056129) and even yet further in view of Grandgent et al (US2003/0021400).

7. Referring to the Examiner's 35 U.S.C. 103(a) rejection of claim 1, the Examiner will be aware that in *ex parte* examination of patent applications, **the Patent and Trademark Office bears the burden of establishing a *prima facie* case of obviousness.** MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). **The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent and Trademark Office.** MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). **If the Patent and Trademark Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent.** *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985). A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). **To establish a *prima facie* case of obviousness, three basic criteria must be met. 1) First**, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. **2) Second**, there must be a reasonable expectation of success. **3) Finally**, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the

claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

8. Newman teaches a virtual room video conferencing system in which a user initiates a connection between his/her computing device and a reflector device. The reflector device is connected by one or more permanent tunnels to other such reflector devices to which other users ("conferences") are connected. Newman is consistent in its disclosure that a user wishing to join a virtual room (conference with one or more other users) always initiates the connection from his/her computing device to a reflector device. Consequently, Newman does not disclose: **i)** establishing a telephone call between a source and a destination; **ii)** doing so at a specified future time; or **iii)** doing so automatically. Nor does Newman disclose **iv)** using a web-based application to automatically establish the telephone call between the source and the destination at the specified future time nor **v)** the step of arranging the web-based application to access a URI comprising the specified future time of the call. The Examiner acknowledges in the Office Action through his reference to Blackketter that Newman does not disclose feature **ii)**. If the Examiner is of the view that Newman discloses or suggests any of features **i)**, **iii)**, **iv)** or **v)**, then he is requested to more clearly and more specifically identify the passages and/or drawings in Newman that disclose or suggest such features.

9. The Examiner's reference to figure 6C, paragraph 18 of Newman as comprising "using a web-based telephony application" is confusing since figure 6C of Newman illustrates a screen shot that appears on a user's computing device of a scheduler of a web browser 600 which includes a calendar. The web browser 600 does not comprise a "web-based telephony application" and Newman makes no disclosure or indeed any suggestion that the web browser can be used to automatically establish a telephony call at a specified future time.

10. Contrary to what the Examiner has stated, Newman does disclose the use of URIs (paragraph 0068) but does so in the context that a URI can be attached to a scheduled conference in the scheduler to provide information to a user about a scheduled conference. There is no disclosure nor any suggestion in Newman that a user can use an attached URI to initiate a telephony call or to do so automatically at a future specified time. Even if Newman were modified to use URIs as taught by AAPA, it would still require a user to initiate establishing a telephony call using the DN contained in the URI. This does not lead to the advance of the present invention whereby a web-based application accessing a URI can automatically establish a telephony call at a specified future time. It is implicit that in the method as claimed there is no requirement for further user input. In both Newman and AAPA, the user always initiates a conference/call connection. Further, since Newman does teach the use of URIs, albeit to provide information to a user about a scheduled conference, if the use of such URIs to initiate a telephony call were so obvious, then Newman would have to look no further than itself to arrive at this obvious result. The fact that Newman makes no such suggestion is further proof that it would not be obvious to modify Newman to employ URIs to initiate a call and, in any event, even if it were so modified, action on the part of the user would still be required. In contrast, the present invention uses URIs to automatically initiate a call.

11. Farris is directed to monitoring the quality of service of a voice call connection through a data network and, where said quality is not satisfactory, automatically routing the call through a voice telephone network. So, even if Newman modified in accordance with AAPA were further modified in accordance with Farris, the resulting arrangement would still not lead to a method of using a web-based application to automatically establish a telephony call at a specified future time. None of Newman, AAPA or Farris addresses the possibility of using a URI comprising a specified future time among other information as a basis for establishing a telephony call at said future time.

12. The Examiner acknowledges that none of Newman, AAPA or Farris teaches or suggests usage of a future time specified in a URI, but contends that Blackketter discloses a well-known concept of using future time specified in the URI. If the concept were so well known, the Examiner would not be relying on Blackketter as a source for this feature since, ironically, Blackketter does not teach specifying a future time in a URI. It is beyond any doubt from a consideration of figures 4 to 6 and the corresponding description of Blackketter that the future time attribute taught by Blackketter comprises part of the trigger in combination with, but not specified in, the URI. This is yet a further feature of the present invention not taught or suggested by any of Newman, AAPA, Farris or Blackketter. It should also be noted that Blackketter is concerned with using trigger signals having time attributes in an interactive television system, not a system for automatically initiating telephone calls. The Examiner offers no reasons why a skilled addressee faced with arranging to automatically initiate telephone calls would look to the field of interactive television systems apart from a fairly broad assertion that it would have been obvious to do so. Why is it obvious to do so? The mere assertion that it is obvious to do so does not meet the burden incumbent on the USPTO, as established by law, of supporting a rejection under 35 U.S.C. §103(a).

Further, in order to meet the burden incumbent on the USPTO, as established by law, of supporting a rejection under 35 U.S.C. §103(a), it is necessary that each claim is considered as a whole and that the three tests established in law and denoted in section 7 of this paper as 1), 2) and 3) respectively are applied thereto. It is also necessary that the conclusions drawn from the application of said tests to each claim are explained to the Applicants by way of demonstrating that the Applicants' arguments have been fully considered but are not persuasive.

13. When dealing with obviousness, it is permitted to "mosaic" the prior art references. However, great caution must be exercised to limit the number of prior art references that need to be combined since the more that are necessary, the less

obvious and less direct the path to the invention. It should be noted that this is an exponential relationship whereby the addition of each new reference to the combination of references increases by a much greater degree than the last the burden on the Office to support its obviousness objection. Regrettably, the Examiner appears to have adopted a "pick 'n' mix" approach to formulating the rejection of independent claim 1 by finding what he contends are the features of the claim in each of an ever increasing series of references and linking them together with broad assertions that it would be obvious to do so. However, applicants have demonstrated in this response that the combination of the five references that the Examiner is relying on to formulate his rejection of claim 1 under 35 U.S.C. §103(a) does not teach or suggest all of the limitations of claim 1. Without more, the applicants are entitled to allowance of this claim.

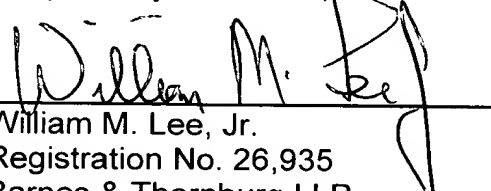
14. The discussion with respect to independent claim 1 as contained in sections 7 to 13 of this paper are equally applicable to other pending independent claims which are also not rendered obvious by the prior art of record.

15. Since all remaining claims are dependent on claims in allowable form, then the dependent claims are also in allowable form.

16. In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance, and such action is solicited.

February 15, 2006

Respectfully submitted,



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